

Devraj Prasad Tiwari Vs. Ramcharit

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Court : Madhya Pradesh

Decided On : Sep-23-2013

Appellant : Devraj Prasad Tiwari

Respondent : Ramcharit

Judgement :

Cr.A.No.1452/2013 23.9.13 Per B.D.Rathi,J Shri Prakash Upadhyay, Advocate for the appellant.

Heard on admission.

This appeal has been preferred under Section 372 of the Code of Criminal Procedure (hereinafter referred to as the Code) being aggrieved with the judgment dated 11.6.2013 passed by IV Additional Sessions Judge, Rewa, in Sessions Trial No.202/2008, whereby respondent nos.1 to 5 namely Ramcharit, Sheshmani, Ramadhar, Raghupati and Geeta Devi have been acquitted of the offences punishable under Sections 307 or 307 read with 149, 325 or 325 read with 149 and 323 or 323 read with 149 (two counts) of the Indian Penal Code (IPC for short). Prosecution case, in brief, is that on 1/8/2005, in order to dispossess Chudamani, Shapathmuni, Devraj and Ramlal of their lands, respondents constituted an un-lawful assembly and in furtherance of its common object, not only attempted murder of Chudamani, but also caused grievous injury to Shapathmuni and injuries to Devraj and Ramlal.

All the victims were brought to Hospital at Rewa, from where intimation was sent to Police Outpost SGMH, on the basis of which Crime No.102/05 was registered and after investigation, charge-sheet was filed.

Learned counsel for the appellant submitted that the trial Court had erred in appreciating the evidence on record and the judgment of acquittal deserved to be interfered with.

Having regard to the arguments advanced by learned counsel for the appellant, impugned judgment and record of the trial Court were perused.

After appreciating the entire evidence on record, trial Court held that agricultural land where the incident had occurred was in possession of respondent no.1 Ramcharit and complainant party was the aggressor as they had gone to dispossess respondent no.1 and in the altercation thus ensued, they had received injuries and, therefore, respondents having right of private defence of property, were not liable to be convicted.

At this stage, learned counsel for the appellant argued that only on the basis of registered sale deed it cannot be inferred that respondent no.1 was in possession of the land and, therefore, respondents are not entitled to get any benefit under right of private defence.

To buttress the contention, reliance was placed on decision of the Apex Court in Ram Pat and Others versus State of Haryana ((2009).SCC614.

We agree with the findings recorded by the trial Court and are not inclined to accept the contention put forth by learned counsel as Deoraj (PW1).brother of seller Shapathmuni, admitted that the disputed land was purchased by respondent no.1 through registered sale deed and respondent no.1 was having continuous possession since the date of purchase.

Therefore, trial Court did not erred in holding that respondent no.1 was in settled and actual possession of the land.

Moreover, the precedent cited above, is not applicable to the facts of the instant case.

It is well settled that the judgment of acquittal should not be disturbed unless the conclusions drawn on the basis of evidence brought on record are found to be grossly unreasonable or manifestly perverse or palpably unsustainable.

Taking into consideration the reasons assigned on the face of evidence on record establishing the aforesaid facts and circumstances, the view taken by the learned trial Court was apparently a possible view.

As such, no interference is called for with the judgment of acquittal in question.

The appeal, being devoid of merit and substance, stands dismissed.

(AJIT SINGH) (B.D.RATHI) JUDGE JUDGE (and)

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